

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

BILLI-JO CLUNEY, individually and as
Personal Representative for the Estate of
James M. Cluney, Sr.

Plaintiffs,

v.

BROWNELLS, INC., and
MDX CORP., and
FEDEX CORPORATE SERVICES, INC.

Defendants.

Case No. 24-cv-00207-LEW

DEFENDANT FEDEX CORPORATE SERVICES, INC.’S ANSWER TO COMPLAINT

Defendant, FedEx Corporate Services. Inc., (“FedEx”), by and through their counsel, hereby submits its Answer and Affirmative Defenses in response to Plaintiff’s Complaint as follows:

PARTIES AND JURISDICTION

1. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 1 of Plaintiff’s Complaint.
2. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 2 of Plaintiff’s Complaint.
3. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 3 of Plaintiff’s Complaint.
4. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 4 of Plaintiff’s Complaint.

5. FedEx admits that its principle corporate office is in Memphis, Tennessee, and denies the remainder of Paragraph 5. FedEx further avers that during the timeframe alleged in the Complaint, FedEx Corporate Services, Inc. was a Delaware corporation and a wholly-owned subsidiary of FedEx Corporation. FedEx further avers that FedEx Corporate Services had no physical locations in Maine and did not transport packages.

6. Paragraph 6 is a statement regarding state court jurisdiction. FedEx avers that jurisdiction is proper in federal court pursuant to 28 U.S.C. §1331.

7. Paragraph 7 is a statement regarding state court venue. FedEx lacks information as to the residency of the parties. FedEx avers that venue is proper in the Maine federal district court.

FACTS RELATED TO ALL COUNTS

8. FedEx repeats the above responses as if set forth fully herein.

BROWNELLS, INC.

9. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 9 of Plaintiff's Complaint.

10. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 10 of Plaintiff's Complaint.

11. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 11 of Plaintiff's Complaint.

12. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 12 of Plaintiff's Complaint.

13. In response to the allegations contained in Paragraph 13, FedEx denies that it performs shipping services for Brownells, Inc. ("Brownells"). Shipping services for Brownells

during the time period alleged in the Complaint were performed by FedEx Ground and FedEx Express, which are separate entities from FedEx Corporate Services.

14. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 14 of Plaintiff's Complaint.

15. In response to the allegations contained in Paragraph 15, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. To the extent a response is required, FedEx denies same.

MDX CORP.

16. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 16 of Plaintiff's Complaint.

17. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 17 of Plaintiff's Complaint.

18. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 18 of Plaintiff's Complaint.

19. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 19 of Plaintiff's Complaint.

20. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 20 of Plaintiff's Complaint.

21. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 21 of Plaintiff's Complaint.

22. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 22 of Plaintiff's Complaint.

23. In response to the allegations contained in Paragraph 23, FedEx denies that it performs shipping services for MDX Corp ("MDX"). FedEx further avers that neither FedEx Ground nor FedEx Express provided shipping services for MDX during the time-period alleged in the Complaint.

24. In response to the allegations contained in Paragraph 24, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. To the extent a response is required, FedEx denies same.

FEDEX CORPORATE SERVICES, INC.

25. FedEx denies that it is a shipping company, and further denies that it has distribution and receiving centers around the world, including Waldo County. FedEx admits it is incorporated in the United States.

26. FedEx denies the allegations contained in Paragraph 26.

27. FedEx denies the allegations contained in Paragraph 27.

28. FedEx denies the allegations contained in Paragraph 28.

29. In response to the allegations contained in Paragraph 29, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. To the extent a response is required, FedEx denies same.

FEDERAL LAW 18 U.S.C. §921-923

30. In response to the allegations contained in Paragraph 30, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. To the extent a response is required, FedEx denies same.

31. In response to the allegations contained in Paragraph 31, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. Further, to

the extent this paragraph cites and relies upon a statute, FedEx denies the allegations that purport to paraphrase or re-characterize that statute or are otherwise inconsistent with that statute.

32. In response to the allegations contained in Paragraph 32, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. Further, to the extent this paragraph cites and relies upon a statute, FedEx denies the allegations that purport to paraphrase or re-characterize that statute or are otherwise inconsistent with that statute.

33. In response to the allegations contained in Paragraph 33, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. Further, to the extent this paragraph cites and relies upon a statute, FedEx denies the allegations that purport to paraphrase or re-characterize that statute or are otherwise inconsistent with that statute.

34. In response to the allegations contained in Paragraph 34, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. Further, to the extent this paragraph cites and relies upon a statute, FedEx denies the allegations that purport to paraphrase or re-characterize that statute or are otherwise inconsistent with that statute.

35. In response to the allegations contained in Paragraph 35, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. Further, to the extent this paragraph cites and relies upon a statute, FedEx denies the allegations that purport to paraphrase or re-characterize that statute or are otherwise inconsistent with that statute.

36. In response to the allegations contained in Paragraph 36, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. Further, to the extent this paragraph cites and relies upon a statute, FedEx denies the allegations that purport to paraphrase or re-characterize that statute or are otherwise inconsistent with that statute.

37. In response to the allegations contained in Paragraph 37, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. Further, to the extent this paragraph cites and relies upon a statute, FedEx denies the allegations that purport to paraphrase or re-characterize that statute or are otherwise inconsistent with that statute.

38. In response to the allegations contained in Paragraph 38, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. Further, to the extent this paragraph cites and relies upon a statute, FedEx denies the allegations that purport to paraphrase or re-characterize that statute or are otherwise inconsistent with that statute.

39. In response to the allegations contained in Paragraph 39, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. To the extent a response is required, FedEx denies same.

40. In response to the allegations contained in Paragraph 40, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. Further, to the extent this paragraph cites and relies upon a statute, FedEx denies the allegations that purport to paraphrase or re-characterize that statute or are otherwise inconsistent with that statute.

41. In response to the allegations contained in Paragraph 41, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. Further, to the extent this paragraph cites and relies upon a regulation, FedEx denies the allegations that purport to paraphrase or re-characterize that regulation or are otherwise inconsistent with that regulation. To the extent a response is required, FedEx denies same.

42. In response to the allegations contained in Paragraph 42, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. To the extent a response is required, FedEx denies same.

43. In response to the allegations contained in Paragraph 43, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. To the extent a response is required, FedEx denies same.

44. In response to the allegations contained in Paragraph 44, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. To the extent a response is required, FedEx denies same.

45. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 45 of Plaintiff's Complaint.

46. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 46 of Plaintiff's Complaint.

47. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 47 of Plaintiff's Complaint.

48. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 48 of Plaintiff's Complaint.

49. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 49 of Plaintiff's Complaint.

50. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 50 of Plaintiff's Complaint.

51. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 51 of Plaintiff's Complaint.

52. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 52 of Plaintiff's Complaint.

53. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 53 of Plaintiff's Complaint.

54. FedEx denies that it is a shipping carrier that ships packages, and further responds that the remaining allegations contained in Paragraph 54 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

55. FedEx denies that it transfers firearms, and further responds that the remaining allegations contained in Paragraph 55 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

56. FedEx denies that it ships firearms, and further responds that the remaining allegations contained in Paragraph 56 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

57. FedEx denies the allegations contained in Paragraph 57.

58. FedEx denies the allegations contained in Paragraph 58.

59. FedEx denies the allegations contained in Paragraph 59.

60. FedEx denies that it is ever in possession of firearms, firearm parts, or ammunition, and further responds that the remaining allegations contained in Paragraph 60 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

61. In response to the allegations contained in Paragraph 61, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. To the extent a response is required, FedEx denies same.

62. FedEx denies the allegations contained in Paragraph 62.

MAINE LAW 17-A M.R.S.A. §2, 394, & 554-B

63. In response to the allegations contained in Paragraph 63, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. To the extent a response is required, FedEx denies same.

64. In response to the allegations contained in Paragraph 64, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. Further, to the extent this paragraph cites and relies upon a statute, FedEx denies the allegations that purport to paraphrase or re-characterize that statute or are otherwise inconsistent with that statute.

65. In response to the allegations contained in Paragraph 65, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. Further, to the extent this paragraph cites and relies upon a statute, FedEx denies the allegations that purport to paraphrase or re-characterize that statute or are otherwise inconsistent with that statute.

66. In response to the allegations contained in Paragraph 66, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. Further, to the extent this paragraph cites and relies upon a statute, FedEx denies the allegations that purport to paraphrase or re-characterize that statute or are otherwise inconsistent with that statute.

67. In response to the allegations contained in Paragraph 67, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. Further, to the extent this paragraph cites and relies upon a statute, FedEx denies the allegations that purport to paraphrase or re-characterize that statute or are otherwise inconsistent with that statute.

68. In response to the allegations contained in Paragraph 68, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. Further, to

the extent this paragraph cites and relies upon a statute, FedEx denies the allegations that purport to paraphrase or re-characterize that statute or are otherwise inconsistent with that statute.

69. In response to the allegations contained in Paragraph 69, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. Further, to the extent this paragraph cites and relies upon a statute, FedEx denies the allegations that purport to paraphrase or re-characterize that statute or are otherwise inconsistent with that statute.

70. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 70 of Plaintiff's Complaint.

71. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 71 of Plaintiff's Complaint.

72. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 72 of Plaintiff's Complaint.

73. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 73 of Plaintiff's Complaint.

74. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 74 of Plaintiff's Complaint.

75. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 75 of Plaintiff's Complaint.

76. FedEx denies that it is a shipping carrier that ships packages, and further responds that the remaining allegations contained in Paragraph 76 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

77. FedEx denies that it transfers firearms, and further responds that the remaining allegations contained in Paragraph 77 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

78. FedEx denies the allegations contained in Paragraph 78.

79. FedEx denies the allegations contained in Paragraph 79.

80. FedEx denies the allegations contained in Paragraph 80.

81. FedEx denies that it is ever in possession of firearms, firearm parts, or ammunition, and further responds that the remaining allegations contained in Paragraph 81 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

82. FedEx denies the allegations contained in Paragraph 82.

83. In response to the allegations contained in Paragraph 83, FedEx responds that the allegations contained therein are a legal conclusion to which no response is required. To the extent a response is required, FedEx denies same.

84. FedEx denies the allegations contained in Paragraph 84.

THE DEATH OF JAMES M. CLUNEY, SR.

85. FedEx repeats the above responses as if set forth fully herein.

86. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 86 of Plaintiff's Complaint.

87. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 87 of Plaintiff's Complaint.

88. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 88 of Plaintiff's Complaint.

89. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 89 of Plaintiff's Complaint.

90. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 90 of Plaintiff's Complaint.

91. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 91 of Plaintiff's Complaint.

92. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 92 of Plaintiff's Complaint.

93. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 93 of Plaintiff's Complaint.

94. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 94 of Plaintiff's Complaint.

95. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 95 of Plaintiff's Complaint.

96. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 96 of Plaintiff's Complaint.

97. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 97 of Plaintiff's Complaint.

98. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 98 of Plaintiff's Complaint.

99. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 99 of Plaintiff's Complaint.

100. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 100 of Plaintiff's Complaint.

101. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 101 of Plaintiff's Complaint.

102. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 102 of Plaintiff's Complaint.

103. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 103 of Plaintiff's Complaint.

104. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 104 of Plaintiff's Complaint.

105. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 105 of Plaintiff's Complaint.

106. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 106 of Plaintiff's Complaint.

107. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 107 of Plaintiff's Complaint.

108. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 108 of Plaintiff's Complaint.

109. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 109 of Plaintiff's Complaint.

110. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 110 of Plaintiff's Complaint.

111. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 111 of Plaintiff's Complaint.

112. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 112 of Plaintiff's Complaint.

113. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 113 of Plaintiff's Complaint.

114. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 114 of Plaintiff's Complaint.

115. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 115 of Plaintiff's Complaint.

116. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 116 of Plaintiff's Complaint.

117. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 117 of Plaintiff's Complaint.

COUNT I

NEGLIGENCE OF BROWNELL, INC.

118. FedEx repeats the above responses as if set forth fully herein.

119. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 119 of Plaintiff's Complaint.

120. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 120 of Plaintiff's Complaint.

121. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 121 of Plaintiff's Complaint.

122. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 122 of Plaintiff's Complaint.

123. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 123 of Plaintiff's Complaint.

124. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 124 of Plaintiff's Complaint.

125. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 125 of Plaintiff's Complaint.

126. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 126 of Plaintiff's Complaint.

127. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 127 of Plaintiff's Complaint.

128. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 128 of Plaintiff's Complaint.

129. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 129 of Plaintiff's Complaint.

130. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 130 of Plaintiff's Complaint.

131. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 131 of Plaintiff's Complaint.

132. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 132 of Plaintiff's Complaint.

133. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 133 of Plaintiff's Complaint.

134. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 134 of Plaintiff's Complaint.

135. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 135 of Plaintiff's Complaint.

136. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 136 of Plaintiff's Complaint.

137. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 137 of Plaintiff's Complaint.

138. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 138 of Plaintiff's Complaint.

COUNT II

NEGLIGENCE OF BROWNELLS, INC. – WRONGFUL DEATH

139. FedEx repeats the above responses as if set forth fully herein.

140. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 140 of Plaintiff's Complaint.

141. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 141 of Plaintiff's Complaint.

142. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 142 of Plaintiff's Complaint.

143. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 143 of Plaintiff's Complaint.

144. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 144 of Plaintiff's Complaint.

145. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 145 of Plaintiff's Complaint.

146. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 146 of Plaintiff's Complaint.

147. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 147 of Plaintiff's Complaint.

148. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 148 of Plaintiff's Complaint.

149. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 149 of Plaintiff's Complaint.

150. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 150 of Plaintiff's Complaint.

151. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 151 of Plaintiff's Complaint.

152. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 152 of Plaintiff's Complaint.

153. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 153 of Plaintiff's Complaint.

154. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 154 of Plaintiff's Complaint.

COUNT III

NEGLIGENCE AGAINST BROWNELLS, INC. -WRONGFUL DEATH

-CONSCIOUS PAIN AND SUFFERING

155. FedEx repeats the above responses as if set forth fully herein.

156. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 156 of Plaintiff's Complaint.

157. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 157 of Plaintiff's Complaint.

158. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 158 of Plaintiff's Complaint.

159. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 159 of Plaintiff's Complaint.

160. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 160 of Plaintiff's Complaint.

161. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 161 of Plaintiff's Complaint.

162. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 162 of Plaintiff's Complaint.

163. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 163 of Plaintiff's Complaint.

164. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 164 of Plaintiff's Complaint.

165. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 165 of Plaintiff's Complaint.

166. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 166 of Plaintiff's Complaint.

167. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 167 of Plaintiff's Complaint.

168. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 168 of Plaintiff's Complaint.

169. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 169 of Plaintiff's Complaint.

170. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 170 of Plaintiff's Complaint.

171. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 171 of Plaintiff's Complaint.

172. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 172 of Plaintiff's Complaint.

173. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 173 of Plaintiff's Complaint.

174. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 174 of Plaintiff's Complaint.

175. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 175 of Plaintiff's Complaint.

COUNT IV

NEGLIGENCE AGAINST BROWNELL'S INC. – LOSS OF CONSORTIUM

176. FedEx repeats the above responses as if set forth fully herein.

177. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 177 of Plaintiff's Complaint.

178. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 178 of Plaintiff's Complaint.

179. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 179 of Plaintiff's Complaint.

180. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 180 of Plaintiff's Complaint.

181. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 181 of Plaintiff's Complaint.

182. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 182 of Plaintiff's Complaint.

183. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 183 of Plaintiff's Complaint.

184. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 184 of Plaintiff's Complaint.

185. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 185 of Plaintiff's Complaint.

186. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 186 of Plaintiff's Complaint.

187. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 187 of Plaintiff's Complaint.

188. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 188 of Plaintiff's Complaint.

189. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 189 of Plaintiff's Complaint.

190. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 190 of Plaintiff's Complaint.

191. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 191 of Plaintiff's Complaint.

COUNT V

PUNITIVE DAMAGES AGAISNT BROWNELLS, INC.

192. FedEx repeats the above responses as if set forth fully herein.

193. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 193 of Plaintiff's Complaint.

194. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 194 of Plaintiff's Complaint.

195. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 195 of Plaintiff's Complaint.

196. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 196 of Plaintiff's Complaint.

197. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 197 of Plaintiff's Complaint.

198. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 198 of Plaintiff's Complaint.

199. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 199 of Plaintiff's Complaint.

200. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 200 of Plaintiff's Complaint.

201. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 201 of Plaintiff's Complaint.

202. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 202 of Plaintiff's Complaint.

203. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 203 of Plaintiff's Complaint.

204. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 204 of Plaintiff's Complaint.

205. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 205 of Plaintiff's Complaint.

206. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 206 of Plaintiff's Complaint.

207. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 207 of Plaintiff's Complaint.

208. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 208 of Plaintiff's Complaint.

209. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 209 of Plaintiff's Complaint.

210. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 210 of Plaintiff's Complaint.

211. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 211 of Plaintiff's Complaint.

212. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 212 of Plaintiff's Complaint.

213. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 213 of Plaintiff's Complaint.

COUNT VI

PUNITIVE DAMAGES AGAINST BROWNELLS, INC.

- WRONGFUL DEATH

214. FedEx repeats the above responses as if set forth fully herein.

215. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 215 of Plaintiff's Complaint.

216. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 216 of Plaintiff's Complaint.

217. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 217 of Plaintiff's Complaint.

218. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 218 of Plaintiff's Complaint.

219. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 219 of Plaintiff's Complaint.

220. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 220 of Plaintiff's Complaint.

221. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 221 of Plaintiff's Complaint.

222. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 222 of Plaintiff's Complaint.

223. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 223 of Plaintiff's Complaint.

224. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 224 of Plaintiff's Complaint.

225. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 225 of Plaintiff's Complaint.

226. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 226 of Plaintiff's Complaint.

227. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 227 of Plaintiff's Complaint.

228. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 228 of Plaintiff's Complaint.

229. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 229 of Plaintiff's Complaint.

230. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 230 of Plaintiff's Complaint.

231. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 231 of Plaintiff's Complaint.

232. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 232 of Plaintiff's Complaint.

233. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 233 of Plaintiff's Complaint.

234. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 234 of Plaintiff's Complaint.

COUNT VII

NEGLIGENCE OF MDX CORP.

235. FedEx repeats the above responses as if set forth fully herein.

236. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 236 of Plaintiff's Complaint.

237. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 237 of Plaintiff's Complaint.

238. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 238 of Plaintiff's Complaint.

239. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 239 of Plaintiff's Complaint.

240. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 240 of Plaintiff's Complaint.

241. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 241 of Plaintiff's Complaint.

242. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 242 of Plaintiff's Complaint.

243. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 243 of Plaintiff's Complaint.

244. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 244 of Plaintiff's Complaint.

245. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 245 of Plaintiff's Complaint.

246. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 246 of Plaintiff's Complaint.

247. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 247 of Plaintiff's Complaint.

248. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 248 of Plaintiff's Complaint.

249. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 249 of Plaintiff's Complaint.

250. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 250 of Plaintiff's Complaint.

251. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 251 of Plaintiff's Complaint.

252. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 252 of Plaintiff's Complaint.

253. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 253 of Plaintiff's Complaint.

254. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 254 of Plaintiff's Complaint.

COUNT VIII

NEGLIGENCE OF MDX CORP. – WRONGFUL DEATH

255. FedEx repeats the above responses as if set forth fully herein.

256. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 256 of Plaintiff's Complaint.

257. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 257 of Plaintiff's Complaint.

258. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 258 of Plaintiff's Complaint.

259. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 259 of Plaintiff's Complaint.

260. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 260 of Plaintiff's Complaint.

261. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 261 of Plaintiff's Complaint.

262. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 262 of Plaintiff's Complaint.

263. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 263 of Plaintiff's Complaint.

264. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 264 of Plaintiff's Complaint.

265. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 265 of Plaintiff's Complaint.

266. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 266 of Plaintiff's Complaint.

267. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 267 of Plaintiff's Complaint.

268. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 268 of Plaintiff's Complaint.

269. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 269 of Plaintiff's Complaint.

270. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 270 of Plaintiff's Complaint.

COUNT IX

NEGLIGENCE AGAINST MDX CORP. – WRONGFUL DEATH

-CONSCIOUS PAIN AND SUFFERING

271. FedEx repeats the above responses as if set forth fully herein.

272. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 272 of Plaintiff's Complaint.

273. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 273 of Plaintiff's Complaint.

274. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 274 of Plaintiff's Complaint.

275. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 275 of Plaintiff's Complaint.

276. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 276 of Plaintiff's Complaint.

277. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 277 of Plaintiff's Complaint.

278. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 278 of Plaintiff's Complaint.

279. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 279 of Plaintiff's Complaint.

280. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 280 of Plaintiff's Complaint.

281. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 281 of Plaintiff's Complaint.

282. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 282 of Plaintiff's Complaint.

283. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 283 of Plaintiff's Complaint.

284. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 284 of Plaintiff's Complaint.

285. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 285 of Plaintiff's Complaint.

286. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 286 of Plaintiff's Complaint.

287. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 287 of Plaintiff's Complaint.

288. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 288 of Plaintiff's Complaint.

289. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 289 of Plaintiff's Complaint.

290. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 290 of Plaintiff's Complaint.

291. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 291 of Plaintiff's Complaint.

COUNT X

NEGLIGENCE AGAINST MDX CORP. – LOSS OF CONSORTIUM

292. FedEx repeats the above responses as if set forth fully herein.

293. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 293 of Plaintiff's Complaint.

294. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 294 of Plaintiff's Complaint.

295. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 295 of Plaintiff's Complaint.

296. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 296 of Plaintiff's Complaint.

297. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 297 of Plaintiff's Complaint.

298. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 298 of Plaintiff's Complaint.

299. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 299 of Plaintiff's Complaint.

300. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 300 of Plaintiff's Complaint.

301. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 301 of Plaintiff's Complaint.

302. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 302 of Plaintiff's Complaint.

303. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 303 of Plaintiff's Complaint.

304. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 304 of Plaintiff's Complaint.

305. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 305 of Plaintiff's Complaint.

306. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 306 of Plaintiff's Complaint.

307. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 307 of Plaintiff's Complaint.

COUNT XI

PUNITIVE DAMAGES AGAINST MDX CORP.

308. FedEx repeats the above responses as if set forth fully herein.

309. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 309 of Plaintiff's Complaint.

310. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 310 of Plaintiff's Complaint.

311. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 311 of Plaintiff's Complaint.

312. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 312 of Plaintiff's Complaint.

313. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 313 of Plaintiff's Complaint.

314. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 314 of Plaintiff's Complaint.

315. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 315 of Plaintiff's Complaint.

316. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 316 of Plaintiff's Complaint.

317. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 317 of Plaintiff's Complaint.

318. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 318 of Plaintiff's Complaint.

319. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 319 of Plaintiff's Complaint.

320. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 320 of Plaintiff's Complaint.

321. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 321 of Plaintiff's Complaint.

322. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 322 of Plaintiff's Complaint.

323. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 323 of Plaintiff's Complaint.

324. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 324 of Plaintiff's Complaint.

325. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 325 of Plaintiff's Complaint.

326. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 326 of Plaintiff's Complaint.

327. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 327 of Plaintiff's Complaint.

328. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 328 of Plaintiff's Complaint.

329. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 329 of Plaintiff's Complaint.

COUNT XII

PUNITIVE DAMAGES AGAINST MDX CORP. – WRONGFUL DEATH

330. FedEx repeats the above responses as if set forth fully herein.

331. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 331 of Plaintiff's Complaint.

332. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 332 of Plaintiff's Complaint.

333. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 333 of Plaintiff's Complaint.

334. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 334 of Plaintiff's Complaint.

335. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 335 of Plaintiff's Complaint.

336. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 336 of Plaintiff's Complaint.

337. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 337 of Plaintiff's Complaint.

338. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 338 of Plaintiff's Complaint.

339. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 339 of Plaintiff's Complaint.

340. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 340 of Plaintiff's Complaint.

341. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 341 of Plaintiff's Complaint.

342. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 342 of Plaintiff's Complaint.

343. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 343 of Plaintiff's Complaint.

344. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 344 of Plaintiff's Complaint.

345. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 345 of Plaintiff's Complaint.

346. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 346 of Plaintiff's Complaint.

347. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 347 of Plaintiff's Complaint.

348. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 348 of Plaintiff's Complaint.

349. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 349 of Plaintiff's Complaint.

350. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 350 of Plaintiff's Complaint.

COUNT XIII

NEGLIGENCE OF FEDEX CORPORATE SERVICES, INC.

351. FedEx repeats the above responses as if set forth fully herein.

352. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 352 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

353. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 353 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

354. FedEx denies the allegations contained in Paragraph 354 of Plaintiff's Complaint.

355. FedEx denies the allegations contained in Paragraph 355 of Plaintiff's Complaint.

356. FedEx denies the allegations contained in Paragraph 356 of Plaintiff's Complaint.

357. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 357 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

358. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 358 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

359. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 359 of Plaintiff's Complaint.

360. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 360 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

361. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 361 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

362. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 362 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

363. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 363 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

364. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 364 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

365. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 365 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

366. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 366 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

367. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 367 of Plaintiff's Complaint.

368. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 368 of Plaintiff's Complaint.

369. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 369 of Plaintiff's Complaint.

370. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 370 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

371. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 371 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

COUNT XIV

NEGLIGENCE OF FEDEX CORPORATE SERVICES, INC.

-WRONGFUL DEATH

372. FedEx repeats the above responses as if set forth fully herein.

373. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 373 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

374. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 374 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

375. FedEx denies the allegations contained in Paragraph 375 of Plaintiff's Complaint.

376. FedEx denies the allegations contained in Paragraph 376 of Plaintiff's Complaint.

377. FedEx denies the allegations contained in Paragraph 377 of Plaintiff's Complaint.

378. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 378 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

379. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 379 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

380. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 380 of Plaintiff's Complaint.

381. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 381 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

382. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 382 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

383. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 383 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

384. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 384 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

385. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 385 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

386. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 386 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

387. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 387 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

388. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 388 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

COUNT XV

NEGLIGENCE AGAINST FEDEX CORPORATE SERVICES, INC. –

WRONGFUL DEATH – CONSCIOUS PAIN AND SUFFERING

389. FedEx repeats the above responses as if set forth fully herein.

390. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 390 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

391. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 391 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

392. FedEx denies the allegations contained in Paragraph 392 of Plaintiff's Complaint.

393. FedEx denies the allegations contained in Paragraph 393 of Plaintiff's Complaint.

394. FedEx denies the allegations contained in Paragraph 394 of Plaintiff's Complaint.

395. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 395 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

396. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 396 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

397. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 397 of Plaintiff's Complaint.

398. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 398 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

399. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 399 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

400. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 400 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

401. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 401 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

402. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 402 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

403. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 403 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

404. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 404 of Plaintiff's Complaint.

405. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 405 of Plaintiff's Complaint.

406. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 406 of Plaintiff's Complaint.

407. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 407 of Plaintiff's Complaint.

408. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 408 of Plaintiff's Complaint.

409. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 409 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

COUNT XVI

NEGLIGENCE AGAINST FEDEX CORPORATE SERVICES, INC.

– LOSS OF CONSORTIUM

410. FedEx repeats the above responses as if set forth fully herein.

411. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 411 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

412. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 412 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

413. FedEx denies the allegations contained in Paragraph 413 of Plaintiff's Complaint.

414. FedEx denies the allegations contained in Paragraph 414 of Plaintiff's Complaint.

415. FedEx denies the allegations contained in Paragraph 415 of Plaintiff's Complaint.

416. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 416 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

417. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 417 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

418. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 418 of Plaintiff's Complaint.

419. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 419 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

420. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 420 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

421. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 421 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

422. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 422 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

423. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 423 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

424. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 424 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

425. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 425 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

COUNT XVII

PUNITIVE DAMAGES AGAINST FEDEX CORPORATE SERVICES, INC.

426. FedEx repeats the above responses as if set forth fully herein.

427. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 427 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

428. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 428 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

429. FedEx denies the allegations contained in Paragraph 429 of Plaintiff's Complaint.

430. FedEx denies the allegations contained in Paragraph 430 of Plaintiff's Complaint.

431. FedEx denies the allegations contained in Paragraph 431 of Plaintiff's Complaint.

432. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 432 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

433. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 433 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

434. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 434 of Plaintiff's Complaint.

435. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 435 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

436. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 436 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

437. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 437 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

438. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 438 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

439. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 439 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

440. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 440 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

441. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 441 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

442. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 442 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

443. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 443 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

444. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 444 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

445. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 445 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

446. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 446 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

COUNT XVIII

PUNITIVE DAMAGES AGAINST FEDEX CORPORATE SERVICES, INC. –

WRONGFUL DEATH

447. FedEx repeats the above responses as if set forth fully herein.

448. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 448 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

449. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 449 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

450. FedEx denies the allegations contained in Paragraph 450 of Plaintiff's Complaint.

451. FedEx denies the allegations contained in Paragraph 451 of Plaintiff's Complaint.

452. FedEx denies the allegations contained in Paragraph 452 of Plaintiff's Complaint.

453. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 453 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

454. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 454 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

455. FedEx is without knowledge or information sufficient to form a belief as to the truth or accuracy of the allegations in Paragraph 455 of Plaintiff's Complaint.

456. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 456 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

457. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 457 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

458. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 458 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

459. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 459 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

460. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 460 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

461. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 461 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

462. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 462 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

463. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 463 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

464. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 464 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

465. FedEx denies that it transported the shipments in question or any shipments of handgun ammunition, and further responds that the remaining allegations contained in Paragraph 465 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

466. FedEx denies that it transported the shipments in question or any shipments of handgun ammunition, and further responds that the remaining allegations contained in Paragraph 466 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

467. FedEx denies that it transported the shipments in question, and further responds that the remaining allegations contained in Paragraph 467 are legal conclusions to which no response is required. To the extent a response is required, FedEx denies same.

RELIEF SOUGHT

FedEx denies Plaintiff has stated a claim for relief, and therefore, denies Plaintiff is entitled to the relief requested in the “Relief Sought” clause immediately after Paragraph 467 of Plaintiff’s Complaint.

To the extent any allegations in Plaintiff’s Amended Complaint remain unanswered, Defendant hereby denies the same.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff's Amended Complaint, and each purported cause of action contained therein, fails to state a claim or cause of action upon which relief can or could be granted, and therefore should be dismissed.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's claims, as alleged, and purported causes of action are barred or limited by the contract of carriage as evidenced by the language found on any airbills, air waybills, or shipping documents which accompanied the alleged shipments, shipping labels, shipment receipts and by the terms and conditions of the applicable Federal Express Service Guide incorporated therein by reference.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims are barred or limited by its failure to perform all conditions precedent to recovery as required by the contract of carriage.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred or limited by its own assumption of risk, or the assumption of risk by its agents, employees, or representatives.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred or limited by its own negligence, or the negligence of its agents, employees, or representatives, or other parties over whom Defendant has no control.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred or limited by its own breach of contract, or the breach of contract of its agents, employees or representatives.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff is barred from recovering on the claims alleged in its Amended Complaint because the damages resulting in such claims were the result of Plaintiff's own acts or omissions.

EIGHTH AFFIRMATIVE DEFENSE

Defendant alleges that there may be other persons or entities who may or may not have been named and/or served in this action who are at fault with respect to the matters referred to in the Complaint, and that such fault proximately caused the damages, if any, complained of by Plaintiff.

NINTH AFFIRMATIVE DEFENSE

Plaintiff is barred from recovering on the claims alleged in its Complaint because it failed to timely file this suit pursuant to the terms and condition of the contract of carriage.

TENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are or may be barred by its failure to give timely notice.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff's state law tort claims are preempted by the federal common law applicable to federally certificated air carriers and by 49 U.S.C. §41713 or other applicable federal law.

Defendant reserves the right to assert any additional affirmative defenses which may be disclosed during the course of additional investigation or discovery.

WHEREFORE, Defendant FedEx Corporate Services, Inc. requests judgment dismissing Plaintiff's Complaint filed herein, together with the costs of disbursements of this action.

Dated: June 13, 2024

/s/ Julia B. MacDonald

Julia B. MacDonald

Joshua D. Dunlap

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*Counsel for Federal Express Corporation,
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FedEx Corporate Services, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on the date indicated below I caused a copy of the foregoing pleading to be filed with the Court's ECF filing system, which will cause an electronic notice to be sent to counsel of record.

I further certify that on June 13, 2024, I served the same, via email and U.S. Mail, postage prepaid to the following:

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DATED: June 13, 2024

/s/ Julia B. MacDonald
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